

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2008

Charles R. Fulbruge III
Clerk

No. 05-61167
Summary Calendar

TUAN CHAU PHAM

Petitioner

v.

MICHAEL B MUKASEY, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A37 341 363

Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Tuan Chau Pham is a native and citizen of Vietnam who was ordered deported from this country based on a determination that he had committed aggravated felonies that were crimes of violence. Pham moved to reopen his case and argued that he was eligible for relief under former 8 U.S.C. § 1182(c). The immigration judge denied both Pham's motion to reopen and his subsequent motion for reconsideration, and the Board of Immigration Appeals (BIA) affirmed the immigration judge. Pham now petitions this court for review.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Pham will receive relief only if he shows that the BIA abused its discretion when it affirmed the denial of his motion. See *Singh v. Gonzales*, 436 F.3d 484, 487 (5th Cir. 2006).

Pham argues that the BIA's application of former § 1182(c) is contrary to *INS v. St. Cyr*, 533 U.S. 289, 295 (2001), and violative of his equal protection rights. These arguments are unavailing. See *Brieva-Perez v. Gonzales*, 482 F.3d 356, 359 (5th Cir. 2007); *Vo v. Gonzales*, 482 F.3d 363, 366-70 (5th Cir. 2007). Pham's petition for review is DENIED.